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OGC 85-51025

4 April 1985

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MEMORANDUM FOR:

C/IPD

[redacted] IRO/DO

[redacted], IRO/DDA

IRO/DDI

IRO/DDST

[redacted] LD/OLL ✓

[redacted], D/PAO (FYI only)

FROM:

[redacted]
Assistant General Counsel

SUBJECT:

DOJ requests concerning Dr. Josef Mengele

1. On 22 March 1985, I forwarded you a copy of Stephen Trott's letter of 12 March 1985, in which he requests, in effect, that we deny FOIA requests for information on Dr. Mengele.

2. In my 22 March 1985 letter, I stated that I would ask DOJ to authorize us to assert the (b)(7) FOIA exemption on their behalf. That authorization is attached.



NMS:PSunshine:jdo
146-2-46-145

Washington, D.C. 20530

March 28, 1985

[redacted]
Office of General Counsel
Central Intelligence Agency

[redacted]
Room 3S11
Washington D.C. 20505

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The purpose of this letter is to advise you formally that Assistant Attorney General Trott's letter to Director Casey, dated March 12, 1985 (copy attached), should be interpreted as a request not to release any information, directly or indirectly involving Mengele or the Mengele investigation, pursuant to exception B(7)(A) of the Freedom of Information Act.

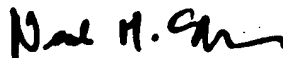
Exception B(7)(A) of the Freedom of Information Act allows an agency to withhold information which would interfere with an ongoing law enforcement proceeding. In Peterzell v. Department of Justice, 576 F.Supp.1492 (D.D.C. 1983), it was held that a foreign law enforcement proceeding is to be included within the term "enforcement proceeding" under the Freedom of Information Act. At present, both the Federal Republic of Germany and the State of Israel have an ongoing law enforcement proceeding against Mengele and have welcomed United States assistance. In addition, there have been allegations in the press that Mengele has been in the United States or may still be in the United States in violation of immigration laws, and that Mengele may be involved in trafficking drugs to the United States. It should also be noted that the Department of Justice's investigation of Mengele is fully authorized under treaty obligations and principles of international law.

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I trust the foregoing is helpful to you. If you have further questions please contact me.

Sincerely,



Neal M. Sher
Director
Office of Special Investigations
1377 K Street, N.W., Suite 195
Washington, D.C. 20005



U.S. Department of Justice

Criminal Division

SST:MR:NMS:PLSunshine:sda
 Typed: 3/11/85

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 12 1985

Honorable William J. Casey
 Director, Central Intelligence Agency
 Washington, D.C. 20505

Dear Mr. Casey:

As you know, Attorney General William French Smith on February 6, 1985, ordered the Office of Special Investigations, Criminal Division, to conduct a thorough and extensive investigation regarding the fugitive Nazi war criminal Josef Mengele. By letter dated February 19, 1985, I requested certain assistance from the Central Intelligence Agency, regarding that investigation. Your Department's continued aid is greatly appreciated.

41 The Department of Justice believes that the disclosure of any information directly or indirectly involving Josef Mengele would substantially interfere with the ability of the Criminal Division to conduct an effective investigation. In our view, the release of any information concerning Mengele from any time period, including information dating to the period of World War II, would interfere with and potentially impede the investigation. Accordingly, I must ask the Central Intelligence Agency not to disclose publicly any information or material you might gather relating to the Justice Department's investigation. I would also appreciate it if you would communicate our position to all appropriate individuals within the Central Intelligence Agency. Your Department is of course authorized to forward a copy of this letter to anyone requesting information from your Department concerning Mengele, by way of a request under the Freedom of Information Act or by other means. Members of your Department are encouraged to coordinate with the Office of Special Investigations concerning any litigation which may develop regarding the release of information on Mengele.

Your continued cooperation and assistance in this matter is appreciated.

Sincerely,

STEPHEN S. TROTT
 Stephen S. Trott
 Assistant Attorney General
 Criminal Division

Records (146-2-47-145)
 Trott (2107, MAIN)
 Richard (2113, MAIN)
 Sher (200, HAM) **AS**
 Sunshine (200, HAM) **AS**
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